IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 15TH NOVEMBER 2006 / 24TH KARTHIKA 1928

Crl.MC.No. 702 of 2004()

(CRIME .63 OF THE ADDL.S.I. OF POLICE, ALATHUR

PETITIONER: ACCUSED.

SUBAIDHA, AGED 68 YEARS,
RESDING AT THULIYAD KALATHIL, CHINAKAD THERUVU,
MELARCODE VILLAGE, ALATHUR, PALAKKAD DISTRICT.

BY ADV. SMT.JEENA JOSEPH
SRI.G.D.PANICKER

RESPONDENTS: RESPONDENT AND STATE.
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1. ADDITIONAL SUB INSPECTOR OF POLICE,
ALATHUR, PALAKKAD DISTRICT REP. BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. MYMOON,W/O.ABDUL KHADER, RESIDING AT
THULIYAD KALATHIL, CHINAKAD THERUVU,
MELARCODE VILLAGE,ALATHUR, PALAKKAD DISTRICT.

R2 BY ADV. SRI.JOHN JOSEPH(ROY)
R1 BY PUBLIC PROSECUTOR SRI GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 15/11/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R. UDAYABHANU, J.

CRL.M.C.NO.702 OF 2004

DATED THIS THE 15TH DAY OF NOVEMBER 2006

ORDER

The petitioner, who is the first accused in Crime No.63/2004 of Alathur Police station with respect to the offence under Section 420 read with section 34 of the Indian Penal Code, has sought for setting aside the above proceedings alleging that the petitioner is totally innocent in the matter and that it is only with a malicious intention that she has been made an accused. It is submitted that the son of the second respondent Sakkir Hussain died on 12-5-2003 while he was working at Jiddah, Saudi Arabia. As per the allegations in the F.I.statement lodged by the mother of the deceased Sakkir Hussain, the second and the third accused, sons of the petitioner, came to the house of the de facto complainant and told her and her son that their brother is working in Dubai with an Arab and that there is need for a driver and that the 4th accused brother of the 3rd and 2nd accused will send Visa to the complainant's son for employment at Saudi Arabia and demanded a sum of Rs. One lakh for the Visa. The paddy field measuring 52 cents was mortgaged and a sum of Rs.One lakh was obtained by the complainant on 29-9-2002 . Thereafter the complainant along with her son, sister and sister's son went to the petitioner's residence and entrusted Rs.One lakh with the petitioner. Subsequently he obtained the Visa. The 2nd and the 3rd accused again

wanted Rs.35,000/- for medical test and ticket expenses. Thereafter, the complainant's son was taken to Saudi Arabia but the employment at Saudi Arabia was only goat rearing. The above job could have been obtained by payment of Rs.25,000/-, as informed to her by her son. Her son was threatened by the 4th accused when he demanded the excess amount paid. Subsequently the son committed suicide and the body was brought to Kerala on 23-8-2003. It is submitted that the petitioner is 68 years old and that she has nothing to do with the proceedings initiated and it is only on an experimental basis that the complaint is filed and the same is sheer abuse of the process of the court. It is contended that the petitioner was unnecessarily dragged into the case.

2. The petition was strongly opposed by the counsel for the second respondent/de facto complainant.

3. I find that in Ext.A1 F.I.S. there is specific allegation against the petitioner also. Further more, it is mentioned that the amount was entrusted with the petitioner. In the circumstances, I find that no sufficient ground has been established to quash the proceedings at the threshold.

In the result, the Crl.M.C.is dismissed.

K.R.UDAYABHANU, JUDGE

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